

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES
MEMORANDUM**

TO: Interested Parties

FROM: Patricia Martinez 

DATE: May 14, 2010

SUBJECT: Residential Child Care Regulations for Licensure (Effective June 1, 2010)

The DCYF rule, **Residential Child Care Regulations for Licensure**, is effective June 7, 2010. This amended rule provides a comprehensive updated set of regulations, in compliance with federal and state law and regulation, for the licensing of residential child care facilities.

This rule was advertised for promulgation in accordance with the Administrative Procedures Act (Title 42, Chapter 35 of the Rhode Island General Laws) on November 2, 2009 and a Public Hearing was held on December 8, 2009. The rule is accessible through the Secretary of State's Rules and Regulations Search Interface (<http://www.rules.state.ri.us/rules/>) and, for a limited period of time, the DCYF website (<http://www.dcyf.ri.gov>) or available in hard copy upon request (401 528-3549).

In response to public comments, the Department of Children, Youth and Families has clarified language and made the following revisions to the original proposal. Listed below are the issues of concern and the Department's response.

Issue 1: The Department was asked to clarify which facility staff are considered to be "Direct Care Staff" and which facility staff are subject to initial and annual crisis intervention and restraint training.

Response: In response to this comment, the Department has included in the final rule in SECTION ONE - GENERAL PROVISIONS, III. DEFINITIONS the following revised definition of direct care staff and added a definition of clinical care staff.

DIRECT CARE STAFF means any person employed or contracted by a facility, on a temporary or permanent basis, to provide care, education or supervision and to implement facility service plans for children in the placement.

CLINICAL CARE STAFF means any person employed or contracted by a facility, on a temporary or permanent basis, to provide specialized clinical and therapeutic services in accordance with their qualifications and licenses.

Additionally, the Department has clarified in SECTION THREE - LICENSING STANDARDS, VI. PROGRAM REQUIREMENTS, L.1.e. and L.5. that initial and annual crisis intervention and restraint training is required for staff responsible for the use of crisis intervention and restraint.

Issue 2: Concern was expressed that the proposed rule, which references DCYF Policy 900.0060, Vendor Guidelines for Establishing New Residential Programs, contains a requirement, as opposed to a guideline, that the application for licensure includes evidence of community notification.

Response: In response to this concern, the Department has revised the language in the final rule in SECTION TWO - LICENSING PROVISIONS, I. APPLICATION PROCESS, C. 8. to clarify that the application should contain a report of any notification made to the community.

*Report of any community notification relating to the establishment of a new program (refer to **DCYF Policy 900.0060, Vendor Guidelines for Establishing New Residential Programs**)*

Issue 3: The Department was asked to clarify when DCYF approval and/or parental permission is required for facility research projects.

Response: The final rule in SECTION THREE - LICENSING STANDARDS, I. ADMINISTRATION AND ORGANIZATION, C. includes the following clarifying language.

Research is permitted for a facility or parent agency's internal evaluation.

Research for any other purpose requires prior approval from DCYF. Upon review, DCYF may require parental approval.

The child's anonymity must be maintained in all phases of the research as dictated by State and Federal law.

Issue 4: The proposed rule required notification to the Department of changes in professional personnel and administrative staff. The Department was asked to clarify which positions are subject to this provision.

Response: The Department has amended the final rule by removing the language "professional personnel" from SECTION THREE- LICENSING STANDARDS, I. ADMINISTRATION AND ORGANIZATION, D. 3. To further clarify this provision, the rule specifies that the "administrative staff" subject to this provision are the chief executive of the parent agency, the director of residential services or program director and the director or supervisor of clinical services.

Issue 5: The Department was asked to clarify the circumstances regarding self administering of subcutaneous medication by a child.

Response: The Department has included the following clarifying language in the final rule in SECTION THREE - LICENSING STANDARDS, III. HEALTH, PRIVACY AND SAFETY, H. 1. and H. 9.

(H. 1.) The facility will maintain written protocols for dispensing over-the-counter (OTC) and prescription (RX) drugs, as well as for monitoring the self-administration of subcutaneous injectables.

(H. 9.) Any medication requiring injection must be administered by a qualified medical practitioner, with the exception of subcutaneous medications, which may be administered by the child if the child has been properly trained and the prescribing physician has authorized the child to self-administer.

All self-injections are to be monitored by trained staff.

If the child is permitted to, but is unable to self-administer a medication, trained staff, in accordance with the facility's written emergency medical procedures (refer to section G. Emergency Medical Procedures above) may administer the medication.

Issue 6: The Department was asked to clarify record keeping requirements for staff supervision.

Response: The Department has eliminated in SECTION THREE- LICENSING STANDARDS, II. PERSONNEL, B. 4 of the final rule the requirement for an employee's personnel file to contain documentation of regular supervision. Upon review, we are confident that SECTION THREE- LICENSING STANDARDS, II. PERSONNEL, C. 1. adequately addresses issues relating to staff supervision.

Issue 7: The Department was asked to clarify DCYF and parental notice and approval requirements relating to media interviewing and/or photographing children in DCYF care.

Response: The following language was added to the final rule in SECTION THREE - LICENSING STANDARDS, I. ADMINISTRATION AND ORGANIZATION, D. 5.

The facility will contact DCYF to request approval prior to permitting any media interviewing or photographing of clients in accordance with DCYF Policy: 300.0005, Media Interviewing or Photographing Children in DCYF Care.

Additionally, the final rule clarifies that consent of parent or guardian is required in SECTION THREE- LICENSING STANDARDS, VI. PROGRAM REQUIREMENTS, B. 5.

Written consent will be obtained from parent or guardian prior to using any videotape or picture of a child or his or her family for any form of publicity, media or use external to the facility in accordance with DCYF Policy: 300.0005, Media Interviewing or Photographing Clients.

If you have questions or concerns, please contact Dorothy Hultine, Implementation Director for Policy and Programs by phone (528-3581) or e-mail (Dorothy.Hultine@dcyf.ri.gov).

Thank you for your attention to this matter.